

I. BASIC ELIGIBLE ACTIVITIES (570.201)

CDBG funds may be used for the following activities:

- (a) **ACQUISITION**. Acquisition in whole or in part by the recipient or other public or private nonprofit entity, by purchase, long-term lease, donation, or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) for any public purpose, subject to the limitations of 570.207.
- (b) **DISPOSITION**. Disposition, through sale, lease, donation, or otherwise of any real property acquired with CDBG funds or its retention for public purposes, including reasonable costs of temporarily managing such property or property acquired under urban renewal, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in 570.504
- (c) **PUBLIC FACILITIES AND IMPROVEMENTS**. Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as provided in 570.207(a), carried out by the recipient or other public or private nonprofit entities. (However, activities under this paragraph may be directed to the removal of material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to public facilities and improvements, including those provided for in 570.207(a)(1).) In undertaking such activities, design features and improvements, which promote energy efficiency, may be included. Such activities may also include the execution of architectural design features, and similar treatments intended to enhance the aesthetic quality of facilities and improvements receiving CDBG assistance, such as decorative pavements, railings, sculptures, pools of water and fountains, and other works of art. Facilities designed for use in providing shelter for persons having special needs are considered public facilities and are not subject to the prohibition of new housing construction described in 570.207(b)(3). Such facilities include shelters for the homeless; convalescent homes; hospitals; nursing homes; battered spouse shelters; halfway houses for run-away children, drug offenders or parolees; group homes for mentally retarded persons and temporary housing for disaster victims. In certain cases, nonprofit entities and subrecipients including those specified in 570.204 may acquire title to public facilities. When nonprofit entities or subrecipients own such facilities, they shall be operated so as to be open for use by the general public during all normal hours of operation. Public facilities and improvements eligible for assistance under this paragraph are subject to the policies in 570.200(b).
- (d) **CLEARANCE ACTIVITIES**. Clearance, demolition, and removal of buildings and improvements, including movement of structures to other sites. Demolition of HUD-assisted housing units may be undertaken only with the prior approval of HUD.
- (e) **PUBLIC SERVICES**. Provision of public services (including labor, supplies and materials) including but not limited to those concerned with employment, crime prevention, childcare, health, drug abuse, education, fair housing counseling, energy conservation, welfare (but excluding the provision of income payments identified under 570.207(b)(4)), homebuyer down payment assistance, or recreational needs. To be eligible for CDBG assistance a public service (1) must be either a new service or a

quantifiable increase in the level of an existing service above that which has been provided by or on behalf of the City in the 12 calendar months before the submission of the action plan. (An exception to this requirement may be made if HUD determines that any decrease in the level of a service was the result of events not within the control of the City.) (2) The amount of CDBG funds used for public services shall not exceed 15% of the grant. **(If applying under this activity, you will need to submit a “social service” application not a CDBG Letter of Interest.)**

(f) **INTERIM ASSISTANCE.**

(1) The following activities may be undertaken on an interim basis in areas exhibiting objectively determinable signs of physical deterioration where the recipient has determined that immediate action is necessary to arrest the deterioration and that permanent improvements will be carried out as soon as practicable:

- (i) The repairing of streets, sidewalks, parks, playgrounds, publicly owned utilities, and public buildings; and
- (II) The execution of special garbage, trash, and debris removal, including neighborhood cleanup campaigns, but not the regular curbside collection of garbage or trash in an area.

(2) In order to alleviate emergency conditions threatening the public health and safety in areas where the chief executive officer of the recipient determines that such an emergency condition exists and requires immediate resolution, CDBG funds may be used for:

- (i) The activities specified in paragraph (f)(1) of this section, except for the repair of parks and playgrounds.
- (ii) The clearance of streets, including snow removal and similar activities, and
- (iii) The improvement of private properties.

(3) All activities authorized under paragraph (f)(2) of this section are limited to the extent necessary to alleviate emergency conditions.

(g) **PAYMENT OF NON-FEDERAL SHARE.** Payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of CDBG activities, provided, that such payment shall be limited to activities otherwise eligible and in compliance with applicable requirements under this subpart.

(h) **URBAN RENEWAL COMPLETION.** Payment of the cost of completing an urban renewal project funded under Title I of the Housing Act of 1949 as amended. Further information regarding the eligibility of such costs is set forth in 570.801.

(i) **RELOCATION.** Relocation payments and other assistance for permanently and temporarily relocated individuals, families, businesses, nonprofit organizations and farm operations where the assistance is

- (1) required under the provisions of 570.606(b) or (c);
 - (2) determined by the grantee to be appropriate under the provisions of 570.606(d).
- (j) **LOSS OF RENTAL INCOME.** Payment to housing owners for losses of rental income incurred in holding, for temporary periods, housing units to be used for the relocation of individuals and families, displaced by program activities assisted under this part.
- (k) **HOUSING SERVICES.** As provided in section 105(a)(21) of the Act 42 U.S.C. 5305(a)(21). [Statutory text: housing services, such as housing counseling in connection with tenant -based rental assistance and affordable housing projects assisted under title II of the Cranston-Gonzalez National affordable Housing Act, energy auditing, preparation of work specifications, loan processing inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities participating or seeking to participate in housing activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act.]
- (l) **PRIVATELY OWNED UTILITIES.** CDBG funds may be used to acquire, construct, reconstruct, rehabilitate, or install the distribution lines and facilities of privately owned utilities, including the placing underground or new or existing distribution facilities and lines.
- (m) **CONSTRUCTION OF HOUSING.** CDBG funds may be used for the construction of housing assisted under section 17 of the United States Housing Act of 1937.
- (n) **HOMEOWNERSHIP ASSISTANCE.** CDBG funds may be used to provide direct homeownership assistance to low- and moderate-income households to:
 - (1) Subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers;
 - (2) Finance acquisition, by low- and moderate-income homebuyers, of housing that is occupied by the homebuyers.
 - (3) Acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that CDBG funds may not be used to guarantee such mortgage financing directly, and grantees may not provide such guarantees directly);
 - (4) Provide up to 50 percent of any down payment required from a low- or moderate-income homebuyer; or
 - (5) Pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- or moderate-income homebuyer.

(o) **MICROENTERPRISE ASSISTANCE**

- (1) The provision of assistance either through the recipient directly or through public and private organizations, agencies and other subrecipients (including nonprofit and for-profit subrecipients) to facilitate economic development by:
 - (i) Providing credit, including but not limited to, grants, loans, loan guarantees, and other forms of financial support, for the establishment, stabilization and expansion of microenterprises;
 - (ii) Providing technical assistance, advice and business support services to owners of microenterprises and persons developing microenterprises; and
 - (iii) Providing general support, including but not limited to, peer support programs, counseling, childcare, transportation and other similar services to owners of microenterprises and persons developing microenterprises.
- (2) Services provided under this paragraph (o) shall not be subject to the restrictions on public services contained in paragraph (e) of this section.
- (3) For purposes of this part, "persons developing microenterprises" means such persons who have expressed interest and who are, or after an initial screening process are expected to be, actively working toward developing businesses, each of which is expected to be a microenterprise at the time it is formed.
- (4) Assistance under this paragraph (o) may also include training, technical assistance, or other support services to increase the capacity of the recipient or subrecipient to carry out the activities under this paragraph (o).

- (p) **TECHNICAL ASSISTANCE.** Provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities. (The recipient must determine prior to the provision of the assistance, that the activity for which it is attempting to build capacity would be eligible for assistance under this subpart C, and that the national objective claimed by the grantee for this assistance can reasonably be expected to be met once the entity has received the technical assistance and undertakes the activity.) Capacity building for private or public entities (including grantees) for other purposes may be eligible under 570.205.

II. ELIGIBLE REHABILITATION AND PRESERVATION ACTIVITIES

(570.202)

- (a) **Types of buildings and improvements eligible for rehabilitation assistance.** CDBG funds may be used to finance the rehabilitation of:
- (1) Privately owned buildings and improvements for residential purposes; improvements to a single family residential property which is also used as a place of business, which are required in order to operate the business, need not be considered to be rehabilitation of a commercial or an industrial building, if the improvements also provide general benefit to the residential occupants of the building.
 - (2) Low-income public housing and other publicly owned residential buildings and improvements;
 - (3) Publicly or privately owned commercial or industrial buildings, except that the rehabilitation of such buildings owned by a private for-profit business is limited to improvements to the exterior of the building and the correction of code violations. (further improvements to such buildings may be undertaken pursuant to 570.203(b).
 - (4) Nonprofit-owned nonresidential buildings and improvements not eligible under 570.201(c); and
 - (5) Manufactured housing when such housing constitutes part of the community's permanent housing stock.
- (b) **TYPES OF ASSISTANCE.** CDBG funds may be used to finance the following types of rehabilitation activities, and related costs, either singly, or in combination, through the use of grants, loans, loan guarantees, interest supplements, or other means for buildings and improvements described in paragraph (a) of this section, except that rehabilitation of commercial or industrial buildings is limited as described in paragraph (a)(3) of this section.
- (1) Assistance to private individuals and entities, including profit making and nonprofit organizations, to acquire for the purpose of rehabilitation, and to rehabilitate properties, for use or resale for residential purposes;
 - (2) Labor, materials, and other costs of rehabilitation of properties, including repair directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures, installation of security devices, including smoke detectors and dead bolt locks, and renovation through alterations, additions to, or enhancement of existing structures, which may be undertaken singly, or in combination;

- (3) Loans for refinancing existing indebtedness secured by a property being rehabilitated with CDBG funds if such financing is determined by the recipient to be necessary or appropriate to achieve the locality's community development objectives;
- (4) Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification, or replacement of heating and cooling equipment, including the use of solar energy equipment;
- (5) Improvements to increase the efficient use of water through such means as water saving faucets and showerheads and repair of water leaks;
- (6) Connection of residential structures to water distribution lines or local sewer collection lines;
- (7) For rehabilitation carried out with CDBG funds, costs of:
 - (i) Initial homeowner warranty premiums;
 - (ii) Hazard insurance premiums, except where assistance is provided in the form of a grant; and
 - (iii) Flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973, pursuant to 570.605.
 - (iv) Procedures concerning inspection and testing for and abatement of lead-based paint, pursuant to 570.608.
- (8) Costs of acquiring tools to be lent to owners, tenants, and others who will use such tools to carry out rehabilitation;
- (9) Rehabilitation services, such as rehabilitation counseling, energy auditing, preparation of work specifications, loan processing, inspections, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in rehabilitation activities authorized under this section, under section 312 of the Housing Act of 1964, as amended, under section 810 of the Act, or under section 17 of the United States Housing Act of 1937;
- (10) Assistance for the rehabilitation of housing under section 17 of the United States Housing Act of 1937.
- (11) Improvements designed to remove material and architectural barriers that restrict the mobility and accessibility of elderly or severely disabled persons to buildings and improvements eligible for assistance under paragraph (a) of this section.

- (c) **CODE ENFORCEMENT.** Costs incurred for inspection for code violations and enforcement of codes (e.g., salaries and related expenses of code enforcement inspectors and legal proceedings, but not including the cost of correcting the violations) in deteriorating or deteriorated areas when such enforcement together with public or private improvements, rehabilitation, or services to be provided, may be expected to arrest the decline of the area.
- (d) **HISTORIC PRESERVATION.** CDBG funds may be used for the rehabilitation, preservation or restoration of historic properties, whether publicly or privately owned. Historic properties are those sites or structures that are either listed in or eligible to be listed in the National Register of Historic Places, listed in a State or local inventory of historic places, or designated as a State or local landmark or historic district by appropriate law or ordinance. Historic preservation, however, is not authorized for buildings for the general conduct of government.
- (e) **RENOVATION OF CLOSED BUILDINGS.** CDBG funds may be used to renovate closed buildings, such as closed school buildings, for use as an eligible public facility or to rehabilitate such buildings for housing.
- (f) **LEAD-BASED PAINT HAZARD EVALUATION AND REDUCTION.** Lead-based paint hazard evaluation and reduction as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851b).

III. SPECIAL ECONOMIC DEVELOPMENT ACTIVITIES (570.203)

A recipient may use CDBG funds for special economic development activities in addition to other activities authorized in this subpart, which may be carried out as part of an economic development project. Guidelines for selecting activities to assist under this paragraph are provided at 570.209. The recipient must ensure that the appropriate level of public benefit will be derived pursuant to those guidelines before obligating funds under this authority. Special activities authorized under this section do not include assistance for the construction of new housing. Special economic development activities include:

- (a) The acquisition, construction, reconstruction, rehabilitation or installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extensions. Such activities may be carried out by the recipient or public or private nonprofit subrecipients.
- (b) The provision of assistance to a private for-profit business, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any activity where the assistance is appropriate to carry out an economic development project, excluding those described as ineligible at 570.207(a) of the CDBG regulations. In selecting businesses to assist the City shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods.
- (c) Economic development services in connection with activities eligible under this section, including but not limited to, outreach efforts to market available forms of assistance; screening of applicants; reviewing and underwriting applications for assistance; preparation of all necessary agreements; management of assisted activities; and the

screening, referral, and placement of applicants for employment opportunities generated by CDBG eligible economic development activities, including the cost of providing necessary training for persons filling those positions.

IV. SPECIAL ACTIVITIES BY COMMUNITY BASED DEVELOPMENT ORGANIZATIONS (CBDO'S) (570.204)

- (a) **ELIGIBLE ACTIVITIES.** The recipient may provide CDBG funds as grants or loans to any CBDO qualified under this section to carry out a neighborhood revitalization, community economic development, or energy conservation project. The funded project activities may include those listed as eligible under this subpart, and, except as described in paragraph (b) of this section, activities not otherwise listed as eligible under this subpart. For purposes of qualifying as a project under paragraphs (a)(1), (a)(2) and (a)(3) of this section, the funded activity or activities may be considered either alone or in concert with other project activities either being carried out or for which funding has been committed. For purposes of this section:
- (1) Neighborhood revitalization project means an activity or activities of sufficient size and scope to have an impact on the decline of a geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation;
 - (2) Community economic development project includes activities that increase economic opportunity, principally for persons of low and moderate income, or that stimulate or retain businesses or permanent jobs, including projects that include one or more such activities that are clearly needed to address a lack of affordable housing accessible to existing or planned jobs.
 - (3) Energy conservation project includes activities that address energy conservation, principally for the benefit of City residents; and
 - (4) To carry out a project means that the CBDO undertakes the funded activities directly or through contract with an entity other than the grantee, or through provision of financial assistance for activities in which it retains a direct and controlling involvement and responsibilities.
- (b) **INELIGIBLE ACTIVITIES.** Notwithstanding that CBDO's may carry out activities that are not otherwise eligible under this subpart, this section does not authorize;
- (1) Carrying out an activity described as ineligible in 570.207(a);
 - (2) Carrying out public services that do not meet the requirements of 570.201(e), except that:
 - (i) Services carried out under this section that are specifically designed to increase economic opportunities through job training and placement and other employment support services, including but not limited to, peer support programs, counseling, child care, transportation, and other similar services; and

- (ii) Services of any type carried out under this section pursuant to a strategy approved by HUD under the provisions of 24 CFR 91.215(e) shall not be subject to the limitations in 570.201(e)(1) or (2), as applicable;
- (3) Providing assistance to activities that would otherwise be eligible under 570.203 that do not meet the requirements of 570.209; or
- (4) Carrying out an activity that would otherwise be eligible under Planning and Capacity Building, but that would result in City exceeding the spending limitation for that category.

(c) **ELIGIBLE CBDO's.**

- (1) A CBDO qualifying under this is an organization which has the following characteristics:
 - (i) Is an association or corporation organized under State or Local law to engage in community development activities (which may include housing and economic development activities) primarily within an identified geographic area of operation, within the jurisdiction of the City; and
 - (ii) Has as its primary purpose the improvement of the physical, economic or social environment of its geographic area of operation by addressing one or more problems of the area, with particular attention to the needs of persons of low and moderate income; and
 - (iii) May be either non-profit or for-profit, provided any monetary profits to its shareholders or members must be only incidental to its operations; and
 - (iv) Maintains at least 51 percent of its governing body's membership for low and moderate income residents of its geographic area of operation, owners or senior officers of private establishments and other institutions located in and serving its geographic area of operation, or representatives of low and moderate income neighborhood organizations located in its geographic area of operation; and
 - (v) Is not an agency or instrumentality of the recipient and does not permit more than one-third of the membership of its governing body to be appointed by, or to consist of, elected or other public officials or employees or officials of an ineligible entity (even though such persons may be otherwise qualified under paragraph (c)(1)(iv) of this section; and
 - (vi) Except as otherwise authorized in this section, requires the members of its governing body to be nominated and approved by the general membership of the organization, or by its permanent governing body; and
 - (vii) Is not subject to requirements under which its assets revert to City upon dissolution; and

- (viii) Is free to contract for goods and services from vendors of its own choosing.
- (2) An CBDO that does not meet the criteria in paragraph (c)(1) of this section may also qualify as an eligible entity under this section if it meets one of the following requirements:
 - (i) Is an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making, or
 - (ii) Is an SBA approved Section 501 State Development Company or Section 502 Local Development Company, or an SBA Certified Section 503 Company under the Small Business Investment Act of 1958, as amended; or
 - (iii) Is a Community Housing Development Organization (CHDO) under 24 CFR 92.2, designated as a CHDO by the HOME Investment Partnerships program participating jurisdiction, with a geographic area of operation of no more than one neighborhood, and has received HOME funds under 24 CFR 92.300 or is expected to receive HOME funds as described in and documented in accordance with 24 CFR 92.300(e).
- (3) A CBDO that does not qualify under paragraphs (c)(1) or (2) of this section may also be determined to qualify as an eligible entity under this section if the recipient demonstrates to the satisfaction of HUD, through the provision of information regarding the organizations charter and by-laws, that the organization is sufficiently similar in purpose, function and scope to those entities qualifying under paragraphs (c)(1) or (2) of this section.

**V. ELIGIBLE PLANNING, URBAN ENVIRONMENTAL DESIGN AND
POLICY-PLANNING-MANAGEMENT- CAPACITY BUILDING
ACTIVITIES (570.205)**

- (a) Planning activities which consist of all costs of data gathering, studies, analysis, and preparation of plans and the identification of actions that will implement such plans, including, but not limited to:
 - (1) Comprehensive plans;
 - (2) Community development plans;
 - (3) Functional plans, in areas such as:
 - (i) Housing, including the development of a housing assistance plan;
 - (ii) Land use and urban environmental design;
 - (iii) Economic development;

- (iv) Open space and recreation;
 - (v) Energy use and conservation;
 - (vi) Floodplain and wetlands management in accordance with the requirements of Executive Orders 11988 and 11990;
 - (vii) Transportation;
 - (viii) Utilities; and
 - (ix) Historic preservation.
- (4) Other plans and studies such as:
- (i) Small area and neighborhood plans;
 - (ii) Capital improvements programs;
 - (iii) Individual project plans (but excluding engineering and design costs related to a specific activity which are eligible as part of the cost of such activity under 570.201 - 570.204);
 - (iv) The reasonable costs of general environmental, urban environmental design and historic preservation studies. However, costs necessary to comply with 24 CFR 58, including project specific environmental assessments and clearances for activities eligible for assistance under this part, are eligible as part of the cost of such activities under 570.201-570.204. Costs for such specific assessments and clearances may also be incurred under this paragraph but would then be considered planning costs for the purposes of 570.200(g).
 - (v) Strategies and action programs to implement plans, including the development of codes, ordinances, and regulations;
 - (vi) Support of clearinghouse functions, such as those specified in Executive Order 12372; and
 - (vi) Analysis of impediments to fair housing choice.
- (b) Policy-planning-management-capacity building activities which will enable the recipient to:
- (1) Determine its needs;
 - (2) Set long-term goals and short-term objectives, including those related to urban environmental design;
 - (3) Devise programs and activities to meet these goals and objectives;

- (4) Evaluate the progress of such programs and activities in accomplishing these goals and objectives; and
- (5) Carry out management, coordination and monitoring of activities necessary for effective planning implementation, but excluding the costs necessary to implement such plans.

CRITERIA FOR NATIONAL OBJECTIVES

The following criteria shall be used to determine whether a CDBG assisted activity complies one or more of the national objectives, as required:

(a) **ACTIVITIES BENEFITTING LOW AND MODERATE INCOME PERSONS.**

Activities meeting the criteria in paragraph (a)(1), (2), (3), or (4) of this section as applicable, will be considered to benefit low and moderate income persons unless there is substantial evidence to the contrary. In assessing any such evidence, the full range of direct effects of the assisted activity will be considered. (The recipient shall appropriately ensure that activities that meet these criteria do not benefit moderate-income persons to the exclusion of low-income persons.)

(1) **AREA BENEFIT ACTIVITIES.**

- (i) An activity, the benefits of which are available to all the residents in a particular area, where at least 51 percent of the residents are low and moderate-income persons. Such an area need not be coterminous with census tracts or other officially recognized boundaries but must be the entire area served by the activity. An activity that serves an area that is not primarily residential in character shall not qualify under this criterion.
- (ii) For purposes of determining qualification under this criterion, activities of the same type that serve different areas will be considered separately on the basis of their individual service area.
- (iii) Activities meeting the requirements of paragraph (d)(5)(i) of this section may be considered to qualify under this paragraph, provided that the area covered by the strategy is either a Federally-designated Empowerment Zone or Enterprise Community or primarily residential and contains a percentage of low and moderate income residents that is no less than 51 percent. Activities meeting the requirements of paragraph (d)(6)(i) of this section may also be considered to qualify under paragraph (a)(1) of this section.

(2) **LIMITED CLIENTELE ACTIVITIES.**

- (i) An activity which benefits a limited clientele, at least 51 percent of whom are low or moderate income persons. (The following kinds of activities may not qualify under (a)(2) of this section: activities, the benefits of which are available to all the residents of an area; activities involving the acquisition, construction or rehabilitation of property for housing; or activities where the benefit to low and moderate income persons to be considered is the creation or retention of jobs, except as provided in paragraph (a)(2)(iv) of this section.) To qualify under this paragraph, the activity must meet one of the following tests:

- (A) Benefit a clientele who are generally presumed to be principally low and moderate-income persons. Activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low- and moderate-income: abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," homeless persons, illiterate adults, Persons living with AIDS, and migrant farm workers; or
 - (B) Require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the low and moderate income limit; or
 - (C) Have income eligibility requirements which limit the activity exclusively to low- and moderate-income persons; or
 - (D) Be of such nature and be in such location that it may be concluded that the activity's clientele will primarily be low and moderate income persons.
- (ii) An activity that serves to remove material or architectural barriers to the mobility or accessibility of elderly or adults meeting the Bureau of the Census Current Population Reports definition of "severely disabled" will be presumed to qualify under this criterion if it is restricted to the extent practicable, to the removal of such barriers by assisting:
- (A) The reconstruction of a public facility or improvement, or portions thereof, that does not qualify under paragraph (a)(1) of this section;
 - (B) The rehabilitation of a privately owned nonresidential building or improvement that does not qualify under paragraph (a)(1) or (4) of this section;
 - (C) The rehabilitation of the common areas of a residential structure that contains more than one dwelling unit and that does not qualify under paragraph (a)(3) of this section.
- (iii) A microenterprise assistance activity carried out in accordance with the provisions of 570.201(o) with respect to those owners of microenterprises and persons developing microenterprises assisted under the activity during each program year who are low- and moderate-income persons. For purposes of this paragraph, persons determined to be low and moderate income may be presumed to continue to qualify as such for up to a three-year period.
- (iv) An activity designed to provide job training and placement and/or other employment services, including, but not limited to, peer support programs, counseling, child care, transportation, and other similar services, in which the percentage of low- and moderate-income persons assisted is less than 51 percent may qualify under this paragraph in the following limited circumstance:
- (A) In such cases where such training or provision of supportive services assists business(es), the only use of CDBG assistance for the project is to provide the job training and/or supportive services; and

- (B) The proportion of the total cost of the project borne by CDBG funds is no greater than the proportion of the total number of persons assisted who are low or moderate income.

(3) **HOUSING ACTIVITIES.**

An eligible activity carried out for the purpose of providing or improving permanent residential structures which, upon completion, will be occupied by low and moderate-income households. This would include, but not necessarily be limited to, the acquisition or rehabilitation of property, conversion of non-residential structures, and new housing construction. If the structure contains two dwelling units, at least one must be so occupied, and if the structure contains more than two dwelling units, at least 51 percent of the units must be so occupied. Where two or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure. Where housing activities being assisted meet the requirements of paragraph 570.208(d)(5)(ii) or (d)(6)(ii) of this section, all such housing may also be considered for this purpose as a single structure. For rental housing, occupancy by low and moderate-income households must be at affordable rents to qualify under this criterion. The recipient shall adopt and make public its standards for determining "affordable rents" for this purpose. The following shall also qualify under this criterion:

- (i) When less than 51 percent of the units in a structure will be occupied by low and moderate-income households, CDBG assistance may be provided in the following limited circumstances:
 - (A) The assistance is for an eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly rental housing project;
 - (B) Not less than 20 percent of the units will be occupied by low and moderate income households at affordable rents; and
 - (C) The proportion of the total cost of developing the project to be borne by CDBG is no greater than the proportion of units in the project that will be occupied by low- and moderate-income households.
- (ii) When CDBG funds are used for housing services eligible under 570.201(k), such funds shall be considered to benefit low- and moderate-income persons if the housing units for which the services are provided are HOME-assisted and the requirements at 24 CFR 92.252 or 92.254 are met.

(4) **JOB CREATION OR RETENTION ACTIVITIES.**

An activity designed to create or retain permanent jobs where at least 51 percent of the jobs, computed on a full time equivalent basis, involve the employment of low- and moderate-income persons. To qualify under this paragraph, the activity must meet the following criteria:

- (i) For an activity that creates jobs, the recipient must document that at least 51 percent of the jobs will be held by, or will be available to, low and moderate-income persons
- (ii) For an activity that retains jobs, the recipient must document that the jobs would actually be lost without the CDBG assistance and that either or both of the following conditions apply with respect to at least 51 percent of the jobs at the time the CDBG assistance is provided:
 - (A) The job is known to be held by a low or moderate income person; or
 - (B) The job can reasonably be expected to turn over within the following two years and that steps will be taken to ensure that it will be filled by, or made available to, a low or moderate-income person upon turnover.
- (iii) Jobs that are not held or filled by a low or moderate-income person may be considered to be available to low and moderate-income persons for these purposes only if:
 - (A) Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and
 - (B) The recipient and the assisted business take actions to ensure that low and moderate income persons receive first consideration for filling such jobs.
- (iv) For purposes of determining whether a job is held by or made available to a low or moderate income person, the person may be presumed to be a low or moderate income person if:
 - (A) He/She resides within a census tract (or block numbering area) either:
 - (1) Meets the requirements of paragraph (a)(4)(v) of this section; or
 - (2) Has at least 70 percent of its residents who are low and moderate income persons; or
 - (B) The assisted business is located in a census tract (or block numbering area) that meets the requirements of paragraph (a)(4)(v) of this section and the job under consideration is to be located within that census tract.
- (v) A census tract (or block group numbering area) qualifies for the presumptions permitted under paragraphs (a)(4)(iv)(A)(1) and (B) of this section if it is either part of a Federally designated Empowerment Zone or Enterprise Community or meets the following criteria:
 - (A) It has a poverty rate of at least twenty percent as determined by the most recently available decennial census information;
 - (B) It does not include any portion of a central business district, as this term is used in the most recent Census of Retail Trade, unless the tract has a

poverty rate of at least 30 percent as determined by the most recently available decennial census information: and

- (C) It evidences pervasive poverty and general distress by meeting at least one of the following standards:
 - (1) All block groups in the census tract have a poverty rate of at least 20 percent;
 - (2) The specific activity being undertaken is located in a block group that has a poverty rate of at least 20 percent; or
 - (3) Upon the written request of the recipient, HUD determines that the census tract exhibits other objectively determinable signs of general distress such as high incidence of crime, narcotics use, homelessness, abandoned housing, and deteriorated infrastructure or substantial population decline.
- (vi) As a general rule, each assisted business shall be considered to be separate activity for purposes of determining whether the activity qualifies under this paragraph, except:
 - (A) In certain cases such as where CDBG funds are used to acquire, develop, or improve a real property (e.g., a business incubator or industrial park) the requirement may be met by measuring jobs in the aggregate for all the businesses which locate on the property, provided such businesses are not otherwise assisted by CDBG funds.
 - (B) Where CDBG funds are used to pay for staff and overhead costs of a subrecipient making loans to businesses exclusively from non-CDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during each program year.
 - (C) Where CDBG funds are used by a recipient or subrecipient to provide technical assistance to businesses, this requirement may be met by aggregating the jobs created or retained by all of the businesses receiving technical assistance during each program year.
 - (D) Where CDBG funds are used for activities meeting the criteria listed at 570.209(b)(2)(v), this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during the program year, except as provided in paragraph (d)(7) of this section.
 - (E) Where CDBG funds are used by a Community Development Financial Institution to carry out activities for the purpose of creating or retaining jobs, this requirement may be met by aggregating the jobs created or retained by all businesses for which CDBG assistance is obligated for such activities during the program year, except as provided at paragraph (d)(7) of this section.

- (F) Where CDBG funds are used for public facilities or improvements which will result in the creation or retention of jobs by more than one business, this requirement may be met by aggregating the jobs created or retained by all such businesses as a result of the public facility or improvement.
- (1) Where the public facility or improvement is undertaken principally for the benefit of one or more particular businesses, but where other business might also benefit from the assisted activity, the requirement may be met by aggregating only the jobs created or retained by those businesses for which the facility/improvement is principally undertaken, provided that the cost (in CDBG funds) for the facility/improvement is less than \$10,000 per permanent full-time equivalent job to be created or retained by those businesses.
- (2) In any case where the cost per job to be created or retained (as determined under paragraph (a)(4)(v)(C)(1) of this section) is \$10,000 or more, the requirement must be met by aggregating the jobs created or retained as a result of the public facility or improvement by all businesses in the service area of the facility/improvement. this aggregation must include businesses which, as a result of the public facility/improvement, locate or expand in the service area of the public facility/improvement between the date the recipient identifies the activity in its final statement and the date the date one year after the physical completion of the facility/improvement. In addition, the assisted activity must comply with the public benefit standards at 570.209(b).

(b) **ACTIVITIES WHICH AID IN THE PREVENTION OR ELIMINATION OF SLUMS OR BLIGHT.**

Activities meeting one or more of the following criteria, in the absence of substantial evidence to the contrary, will be considered to aid in the prevention or elimination of slums or blight:

(1) **ADDRESS SLUMS OR BLIGHT ON AN AREA BASIS.**

An activity will be considered to address prevention or elimination of slums or blight in an area if:

- (i) The area, delineated by the recipient, meets a definition of a slum, blighted, deteriorated or deteriorating area under State or local law;
- (ii) Throughout the area there is a substantial number of deteriorated or deteriorating buildings or public improvements are in a general state of deterioration;

- (iii) Documentation is maintained by the recipient on the boundaries of the area and the condition which qualified the area at the time of its designation; and
- (iv) The assisted activity addresses one or more of the conditions which contributed to the deterioration of the area. Rehabilitation of residential buildings carried out in an area meeting the above requirements will be considered to address the area's deterioration only where each such building rehabilitated is considered substandard under local definition before rehabilitation, and all deficiencies making a building substandard have been eliminated if less critical work on the building is undertaken. At a minimum, the local definition for this purpose must be such that the buildings that it would render substandard would also fail to meet the housing quality standards for the Section 8 Housing Assistance Payments Program-Existing Housing (24 CFR 882.109).

(2) **ADDRESS SLUMS OR BLIGHT ON A SPOT BASIS.**

Acquisition, clearance, relocation, historic preservation and building rehabilitation activities which eliminate specific conditions of blight or physical decay on a spot basis not located in a slum or blighted area will meet this objective. Under this criterion, rehabilitation is limited to the extent necessary to eliminate specific conditions detrimental to public health and safety.

(c) **ACTIVITIES DESIGNED TO MEET COMMUNITY DEVELOPMENT NEEDS HAVING A PARTICULAR URGENCY.**

In the absence of substantial evidence to the contrary, an activity will be considered to address this objective if the recipient certifies that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the recipient is unable to finance the activity on its own, and that other sources of funding are not available. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the certification by the recipient.

(d) **ADDITIONAL CRITERIA.**

- (1) Where the assisted activity is acquisition of real property, a preliminary determination of whether the activity addresses a national objective may be based on the planned use of the property after acquisition. A final determination shall be based on the actual use of the property, excluding any short-term, temporary use. Where the acquisitions for the purpose of clearance which will eliminate specific conditions of blight or physical decay, the clearance activity shall be considered the actual use of the property. However, any subsequent use or disposition of the cleared property shall be treated as a "change of use" under 570.505.

- (2) Where the assisted activity is relocation assistance that the recipient is required to provide, such relocation assistance shall be considered to address the same national objective as is addressed by the displacing activity. Where the relocation is voluntary on the part of the grantee the recipient may qualify the assistance either on the basis of the national objective addressed by the displacing activity or on the basis that the recipients of the relocation assistance are low- and moderate-income persons.
- (3) In any case where the activity undertaken for the purpose of creating or retaining jobs is a public improvement and the area served is primarily residential, the activity must meet the requirements of paragraph (a)(1) of this section as well as those of paragraph (a)(4) of this section in order to qualify as benefiting low- and moderate-income persons.
- (4) CDBG funds expended for planning and administrative costs under 570.205 and 570.206 will be considered to address the national objectives.
- (5) Where the grantee has elected to prepare an area revitalization strategy pursuant to the authority of 91.215(e) of this title and HUD has approved the strategy, the grantee may also elect the following options:
 - (i) Activities undertaken pursuant to the strategy for the purpose of creating or retaining jobs may, at the option of the grantee, be considered to meet the requirements of this paragraph under the criteria at paragraph (a)(1)(vii) of this section in lieu of the criteria at paragraph (a)(4) of this section; and
 - (ii) All housing activities in the area for which, pursuant to the strategy, CDBG assistance is obligated during the program year may be considered to be a single structure for purposes of applying the criteria at paragraph (a)(3) of this section.